

---

## Safeguards in HB 4009 Regarding Reinstatement of Parental Rights

### Safeguards for Motions to Reinstate Parental Rights of a Former Parent

- Only DHS and child<sup>1</sup> can file a motion to reinstate parental rights that have been terminated.
- Child must be at least 12 years old to file absent good cause.
- Child has a right to have a lawyer appointed to help them.
- Child must consent to her parent’s rights being reinstated.
- Cannot file a motion if an adoption has been initiated (Under ORS 109.309 or ORS 419B.529), so no filed or pending adoptions will be interrupted.
- Must wait to file until 18 months after the parental rights have been terminated or six months after the appellate judgment, whichever is later.<sup>2</sup>
- Motion must be in writing and state a prima facie case (showing a legally sufficient case)—if no prima facie case is stated, the motion can be denied without a hearing.
- Moving party has the burden of proving the required elements by clear and convincing evidence, which is a very high standard of proof. The required elements are:
  - a. the conduct or conditions that led to the termination of parental rights have been ameliorated;
  - b. the parent wants his/her rights to be reinstated;
  - c. it is in the best interest of the child which requires the court to consider: the child’s health, safety, permanency, age, maturity, ability to express his/her preferences, why the parent’s rights were terminated in the first place, why the parent wants her rights reinstated, and the impact of the past abuse, if any, by the parent on the child.
  - d. And, the child consents to the reinstatement.

### Safeguards if a Motion is Granted

- The child remains a ward of the court for at least six months which means that DHS and the court remain involved in the family’s lives—wardship can continue longer than 6 months if needed.
- DHS aids in the child’s transition to the parent’s home and continues to offer supports including reunification supports.
- A permanency hearing, where DHS reports to the court, must be held within 60 days of the order reinstating parental rights.

---

<sup>1</sup> Though a few states allow parents to file, neither Washington nor California does.

<sup>2</sup> Nationally 83% of adoptions happen within the first 17 months after termination.